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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 1186

ANDREW J. EASTER, Stockholder,
Petitioner,

v.

THE CLYDESDALE, Incorporated,
Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

ANDREW J. EASTER,
In Proper Person,
2801 Adams Mill Road, N.W.,
Apt. 108,
Washington, D.C., 20009,
Petitioner.

H. Victor Broenstrup, LL D: PH. D: D. LITT.
Constitutional Government,
1886 Dayton, Ohio,
1963 San Francisco, Cal.

In Memorial.

WILSON - EPES PRINTING CO. - RE 7-6002 - WASHINGTON 1, D. C.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No.

ANDREW J. EASTER, Stockholder,
Petitioner,

v.

THE CLYDESDALE, Incorporated,
Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Petitioner, Andrew J. Easter, stockholder of respondent cooperative corporation, an owner and landlord of an apartment within said cooperative building, requests the Court to review the *Original Records* and the illegal actions of the lower courts resulting from the respondents' deceitful and deliberate misrepresentations to delude the court; by representing as true, what was and is actually known to be false, in dispossessing apartment 104, the eviction of petitioner's tenant, furniture, and the breaking into a secured locker of petitioner's lifetime works of art, and placed on the sidewalk; continued harassment, discriminations, threat of life, etc., returned checks by pushing under door, the payments for maintenance assessments by a joint checking account for two apartments, yet respondent claimed that respondent was not receiving payment to maintain the property.*

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* Footnote: Misrepresentations by the respondent's alleged attorney; and the Misjoiner, the attorney's Motion to Docket and

All in violation of the District of Columbia Code which prohibits the District of Columbia Court of General Sessions Landlord and Tenant Branch from hearing any controversy involving Title, by the respondents' filing an incorrect Complaint, alleging violation of an Amendment to the By-Laws, illegally obtained and applied or necessary, and the other matters of the past disclosed by the following Index and Docket Entries of the proceedings, etc., (App. 1, p. 1A-6A) and the recent letter of shocking rudeness of March 22, 1966, signed by the respondent corporation's alleged president as follows:

THE CLYDESDALE, INCORPORATED
2801 Adams Mill Road
Washington, D. C., U. S. A.
20009

Mr. Andrew J. Easter
Apartment 108
2801 Adams Mill Road
Washington, D. C. 20009

March 22, 1966

Dear Mr. Easter:

The Board of Directors of The Clydesdale, Inc., has considered the matter of your shocking rudeness and vituperative remarks to a prospective purchaser and a contractual purchaser of apartments in the building occurring on a recent Saturday morning in the presence of the undersigned. This offense of utmost gravity was but

---

Dismiss (App. 6, p. 11A), Fraud would be on the Court. Refuted by proof of Notice of Appeal, Designation of Record, statement of Errors, statement of Proceedings and Evidence, page 185, 186, 187, 189, of the Index, (App. 1, p. 1A) checks, * * * deposited into the Court in the sum of $65.52, drawn to the order of Geo. W. Linkins Co., agent for Clydesdale noted under date of Oct. 21, 1964 of Proceedings (App. 1, p. 3A) and Notice of Appeal filed by defendant, Nov. 13, 1964, Designation of Record and statement of errors filed by defendant, Nov. 19, 1964, statement of proceedings and evidence filed by defendant, Nov. 23, 1964; of proceedings (App. 1, p. 4A) in addition to all other payments, etc., to present, most of which were returned by respondent.

the most recent of a long-continued series of incidents that have been the subject of complaints about your similarly rude, discourteous and abusive behavior toward other residents of the building and their guests and invitees.

The Board of Directors have therefore directed that you be advised that it is determined to fulfil its duty to preserve to the residents of the other 49 dwelling units of the building and their well-behaved guests and invitees their right to peaceful enjoyment of lawful and otherwise socially acceptable pursuits in the building and their right of unmolested access to their apartment-homes and of transversal of the common areas of the building without being subjected to your noisy diatribes on political and social controversies and threats of litigious involvement in connection with the affairs of the Corporation.

You are therefore reminded that while your relationship to this Corporation is no longer as stockholder, but as spouse of a stockholder, your continued residence in the building is nevertheless subject to your faithful compliance with the By-Laws of the Corporation and the Building Regulations duly promulgated by the Board of Directors pursuant to Article XI, Section 6 of the By-Laws. Your attention is specially directed to Paragraph 1 of said Regulations, which provides that RESIDENTS OF THE CLYDESDALE SHALL CONDUCT THEMSELVES WITH DECORUM AND DIGNITY AND MANNER CONSONANT WITH ITS CHARACTER AS A RESPECTABLE RESIDENTIAL ESTABLISHMENT FOR PERSONS OF CONSEQUENCE, and prohibits any OUTRAGEOUS BEHAVIOR AND REPEATED LAPSES FROM GOOD TASTE.

You are therefore hereby directed to CEASE and DESIST from addressing any resident of or any visitor to or any passer-by thereof in any loud, raucous, provocative, profane, rude, or discourteous manner whatever, or subjecting to lengthy conversation any such person who

has not CLEARLY indicated a desire to talk with you. You are also directed to desist and refrain from abusing or annoying, or in any way harassing or interfering with the work of any employee of the corporation or any workman doing work on the premises.

Please be advised also that the Board of Directors is diligently, has been, and continues to be diligently endeavoring to fulfil its responsibilities to you as a terminated stockholder under the By-Laws of the Corporation. In view of your recent flagrant interferences with such endeavors the Board of Directors has directed the assessment against you of damages for the loss of maintenance revenues for such period as the resale of apartment 104 may be frustrated by your interferences.

Please be advised, also, that any further interference by you in the affairs of the Corporation, or the resale of apartment 104 or the sale of any other apartment in the building, or any further instance of rude or discourteous behavior by you toward any other resident, or guest or invitee will leave the Board of Directors with no alternative to determining that your continued residence in the building would constitute an intolerable infringement of the rights of our other residents and no other choice than to withdraw its approval of your residence in apartment 108 and to initiate such legal proceedings as may be necessary to effect your removal from the building. This last-resort procedure has never been necessary in the long history of the building; and it is the sincere hope of the Board of Directors that you will bring your demeanor into conformity with the accepted standards of polite and cultivated social groups required under the By-Laws and Building Regulations, and thus enable us to avoid taking such extreme measures in your case.

Very truly yours,

/s/ James K. Scarborough
JAMES K. SCARBOROUGH
President

OPINIONS BELOW

Although the lower courts were influenced by the respondent's deceptions, the verdicts were given without conscientious considerations as required for the findings of fact and conclusions of law, and were therefore given without *stating reasons;* in spite of the many incidents and the defendant's *Answer* to the Complaint, for possession of real estate, *Motion to Dismiss* for lack of jurisdiction, Suggestion for *Removal of Record, Rehearing* requests and *Motions* for judgment N.O.V., in the series of cases below:

District of Columbia Court of General Sessions, Civil Division Landlord and Tenant Branch, case No. L & T 70008-64,

> *Trial finding for plaintiff. December 4, 1964, Judge Edmond T. Daly—Reconsideration denied December 30, 1964, Appeal noted December 30, 1964.*

District of Columbia Court of Appeals, case No. 3631, ORDER—

> *On motion of Herman Miller, Esquire, of counsel for the appellee in the above-entitled case, and he having produced a certificate from the Clerk of the District of Columbia Court of General Sessions showing that an appeal to this Court has been taken, and it appearing to the Court that the appellant has failed to have his cause filed and docked,*
>
> *Therefore, it is now here ordered and adjudged by this Court that this appeal be and the same is hereby docketed and dismissed with costs, pursuant to the 33rd Rule of this Court. Judge Andrew M. Hood,—November 27, 1964, Reconsideration denied—Appeal noted—consolidated with 2880 and 3698.*

United States Court of Appeals for the District of Columbia Circuit, case No. 19,442,—consolidated with 2880 and 3698. ORDER—

On consideration of petitioner's petition for the allowance of an appeal from the District of Columbia Court of Appeals, and of the briefs filed by the parties, it is

ORDERED by the court that petitioner's aforesaid petition is denied.

Judge Wilber K. Miller, Fahy, and McGowan,—September 24, 1965—Reconsideration denied November 4, 1965.

JURISDICTION

The Orders of the United States Court of Appeals for the District of Columbia Circuit entered on September 24, and November 4, 1965, in denying an allowance of an appeal herein, and petitioner's petition for reconsideration of said order. (App. 4). This Court has jurisdiction under 28 U.S.C. 1254 (1).

STATUTES INVOLVED

D. C. Code 1940, Sect. 11—703,

"whenever it became apparent in an action of ejectment in municipal court that title *must be tried and determined, that court should take no further cognizance of cause, but should* stop short."

D. C. Code—Amended 1953, Sect. 11—735,

"the lower court was given jurisdiction in all cases of ejectment, except where title *is interposed."*

Constitution of the United States

Fifth Amendment
Fourteenth Amendment

Other Sources

Rules of the District of Columbia Court of General Sessions, L & T Rules—Sect. 11, Rules for L & T

*Branch, page 2,—not necessary to file any answer, plea, affidavit or other defence in writing * * *.*

Assateague Purchase

Senate voted to provide that owners of residences built before 1963, be allowed to occupy their property for 25 years.

PRIOR CASES

Clydesdale v. Easter, et al.	L & T 14661-58
Clydesdale v. Easter, et al.	L & T 25407-63

QUESTIONS PRESENTED AND STATEMENT OF THE CASE

As the Petition for Allowance of an Appeal filed herein together with a Brief by Petitioner for Allowance of Appeal were denied, and the court's granting of respondent's motion, on July 23, 1965, to allow enlargement of size of Respondent's Brief; at least sixty incidents were required, all as the result of respondent's illegal and unconstitutional action on an alleged Complaint filed on October 5, 1964, for possession of real estate in an action of ejectment as presented for non payment of rent in the District of Columbia Court of General Sessions, *Landlord and Tenant Branch*, case No. L & T 70008-64; on an alleged violation of an occupancy agreement and the amending of a by-law, to discontinue the rental of apartments; a controversy between a stockholder and the respondent corporation, where title to and of an apartment was involved.

Did the judgment of the District of Columbia Court of Appeals, entered on June 14, 1965, depart from the accepted and usual course of judicial proceeding, by denying the petitioner's Petition for Reconsideration of the court's judgment entered on June 2, 1965? in the case entitled Easter v. Clydesdale, No. 3698, sustaining the

landlord and tenant branch of the District of Columbia Court of General Sessions; in favor of the respondent and in violation of the rules of said court that: it was not necessary to file any answer, plea, affidavit or other defense in writing; and the law: whenever it became apparent in an action of ejection in municipal court that *title* must be tried and determined, that court should take no further cognizance of cause, but should *stop short;* and code: the lower court was given jurisdiction in all cases of ejectment, except where *title* is interposed.

Although it was not necessary to amend the by-law by allowing rental of apartments as rental apartments had diminished from 22 to 6 to 3, and the change would not had applied to petitioner's deceased wife's apartment as same had been rented since 1946 for the benefit of her estate; and that it would not have been applicable or retroactive to the petitioner's apartment, especially since the apartment was vacant before and after the said alleged amendment was claimed to have been adopted on May 6, 1964. See Assateague Purchase: owners of residences built before 1963 to occupy their property for 25 years.

The petitioner is the owner of 50 shares of stock and apartment 104, in the respondent corporation, consisting of about 50 individual apartments owned by individual stockholders, for their mutual welfare. That in view of the fact and because of the ownership of the said apartment and the only reason for the ownership of said cooperative stock, as it is stated on the stock certificate "* * * in accordance with the terms of the by-laws by the company, particularly Article V, Section 4: The equitable proportion of each *owner* * * * shall be taken and deemed to be the proportion which the value, as fixed by the original plan of *ownership* of the *apartment belonging* to such *owner* bears to the total value of all the apartments * * * ."

That the petitioner lives in apartment 108, same belonging to his present wife, and all charges and expenses on or in connection with the two apartments, have been for years paid by the same check, the joint check has been returned and been a part of the suberfuge basis of this landlord and tenant action, in which branch the court permitted the continuances of the case on various excuses of the alleged attorney for the respondent, although he has many substitutes, etc., the fraudulent pretenses, the predetermined decision of the trial judge, etc., the credibility and perjury of respondent's witness, the malfeasant management and continued harassment of the petitioner and others by the respondent; resulting in the dispossession of petitioner's apartment, etc., the denial of the injunctive right to prevent said dispossession, as the case was and is still pending in court. And that, on the 5th day of May, 1965, the respondent, president of said corporation, illegally had called 2 police to evict petitioner stockholder from a dinner and meeting of the stockholders in spite of petitioner not only being a stockholder, but also held a proxy for another stockholder.

And in addition to the above, that at the time and subsequent to the reffered to alteration of the rental provision, the said apartment, became vacant and was vacant at time of the action of the alteration, but a proper tenant had been procured in spite of the respondent posting a no rental sign in the lobby, but was being intiminated while considering said rental and later dispossessed, while other tenants were actually occupying other apartments, and are now being occupied including others under pretenses. Was the complaint filed in the landlord and tenant court incorrectly made and used as an action of ejectment in the usual non-payment of rent cases instead of a controversy reference changing a by-law? Which by-law allowed any owner the right to use and rent their apartment; whereas on May 6, 1965, said by-law was amended to restrict said rental only to members of their

immediate family and with a provision that those apartments then being rented, may continue to be so occupied until it be vacated by lessor, but shall not again be rented; thereby involving the exercise of the right of title.

Did the amendment to the by-law deprive the petitioner a substantial Property Right and an error, as his apartment was vacant at time? Did it deprive him of a right in violation of the Due Process and Equal Protection Clauses of the Fifth and Fourteenth Amendments respectfully of the Constitution? The stock certificate shows the construction put upon the by-law giving the right to an apartment, particularly in view of the only reason for having the stock.

ARGUMENT AND REASONS FOR GRANTING THE WRIT

The relevant parts of the statutes or regulations involved consist of the Constitution of the United States, especially the Fifth and Fourteenth Amendments and the District of Columbia Code 1940, Section 11—703, 16—518, and the 1953 Amendment, Section 11—735, wherein the court's jurisdiction was eliminated where title must be tried or is interposed.

It is, therefore contended, that this ex post facto or retrospective action, having retroactive effect, takes a sustained property right from stockholders, etc., and therefore the change in the by-law should had been only as affecting the *subsequent purchaser* of stock and not retroactive or applying to the present stockholders. Assateague Purchase, allowed 25 yrs.

It is necessary so as not to overlook and to perpetuate the respondent's malfeasant management and fraudulent past, the conspiracy being perpetrated, attorney fees, unnecessary mortgage, etc., for their personal gain; for the court to review the Stipulation of 1958, Lynn's Statement

reference an officer, the Receipt, for sale of apartment by respondent witnesses; the Briefs and Appendices for appellant, petitioner, and the entire original record pertaining to case No. L & T 70008-64, trial and appellants actions including D. C. Ct. Appeals, case Nos. 2880, 3631, pertinent and necessary, but was not filed in appeal No. 3698, of said court, nor forwarded for case No. 19879, and the pending cause 19442, all consolidated and joined herein. The Statute, D. C. Code, Title 16-1501, 1961 Fd. Supp. IV: Restitution—possessions of real property going back to the rightful owner, taken away illegally, could not be determined by interpretation of personal opinions, in spite of law, constitution, etc., testimony, and the facts.

CONCLUSION

Lower courts failed to state reasons for trial finding for plaintiff-respondent, for possession of petitioners apartment. It is therefore prayed, that due to the facts and the law, presented and pertaining thereto, and for the foregoing reasons, it is respectfully submitted that this petition for a writ of ceritiorari be granted, so that the equitable rights of all the people are preserved.

Respectfully,

ANDREW J. EASTER,
In Proper Person,

2801 Adams Mill Road, N.W.,
Apt. 108,
Washington, D.C., 20009,

Petitioner.

Background:

Trained in the Fine Arts—to observe and to recognize the Fact. The original of the reproduction above is one of the appellant's best works.

CERTIFICATION

It is hereby certified by the undersigned that this petition is presented in good faith and not for delay and that the petition is restricted to grounds which are confined to intervening circumstances of substantial or controlling effect.

ANDREW J. EASTER

AFFIDAVIT OF SERVICE
(Jurat dated April 1, 1966)

ANDREW J. EASTER

APPENDIX 1

DISTRICT OF COLUMBIA COURT OF APPEALS

JANUARY TERM, 1965

No. 3698

APPEAL FROM DISTRICT OF COLUMBIA COURT OF GENERAL SESSIONS

CIVIL DIVISION, L. & T. BRANCH

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PROCEEDINGS

DATE	
Sep. 21, 1964	Summons and Copy issued, returnable Oct. 5, 1964 9:30 A.M. returned Summoned Pltff's Cost $2.00 Sworn Complaint Filed
Oct. 5, 1964	
Oct. 5, 1964	Answer of defendant filed this date.
Oct. 5, 1964	Motion to dismiss for lack of jurisdiction filed by defendant.
Oct. 5, 1964	Affidavit filed.
Oct. 5, 1964	Case continued until Oct. 12, 1964 over def's objection. Judge Barlow
Oct. 12, 1964	Motion for certification to district court filed. Jurat Pltff's Costs 25
Oct. 12, 1964	Case continued to 10/14/64. Judge Howard.
Oct. 14, 1964	Continued to October 21, 1964 over Defendant's Objection. Counsel for Plaintiff in active trial before Judge Richmond B. Keech, U.S. District Court. J. Barlow.
Oct. 21, 1964	Continued to November 9, 1964 upon request of Defendant. Checks for Aug., Sept, and Oct. '64 to be deposited into the Registry of the Court on or before October 23, 1964. (Paniczko Reporter). Judge Barlow.
Oct. 21, 1964	Received of Andrew J. Easter two checks in the sum of $65.52 each drawn to the order of Geo. W. Linkins Co. (Agt. for Clydesdale), Check No. 80, dated August 3, 1964, and Check No. 89, dated September 2, 1964. WMN.

DATE	
Oct. 23, 1964	Plea of title filed by plaintiff.
Nov. 9, 1964	Plea of title noted bond set at $2,500.00 to be filed within four days from today. Judge Smith.
Nov. 13, 1964	Notice of appeal filed by defendant. Deft's Costs $5.00
Nov. 19, 1964	Designation of record and statement of errors filed by defendant.
Nov. 23, 1964	Statement of proceedings and evidence filed by defendant.
Nov. 27, 1964	Order "On motion of Herman Miller, esquire, of counsel for the appellee in the above-entitled case, and he having produced a certificate from the clerk of the District of Columbia Court of General Sessions showing that an appeal of this court has been taken, and it appearing to the court that the appellant has failed to have his cause filed and docketed, Therefore, it is now here ordered and adjudged by this court that this appeal be and the same is hereby docketed and dismissed with costs, pursuant to the 33rd Rule of this Court. Chief Judge, Andrew M. Hood.
Nov. 30, 1964	Please set the above case for trial on Thursday, December 3rd, 1964 at 9:30 A.M. or as soon thereafter as the same may be heard. Copy mailed to defendant 2801 Adams Mill Road, N. W. by U.S. Mail, Postage Prepaid, this 29th day of November 1964.

DATE	
Dec. 3, 1964	Trial held. Taken under advisement. J. Daly
Dec. 7, 1964	Trial finding for Plaintiff. J. Daly.
Dec. 11, 1964	Motion for a rehearing, filed by defendant
Dec. 14, 1964	Please set defendants motion for reconsideration for Thursday December 17, 1964 at 9:30 a.m. or as soon as same may be heard, filed by plaintiff.
Dec. 14, 1964	Copy mailed to defendant the 14th day of December 1964. by plaintiff.
Dec. 17, 1964	C-12-18-64.
Dec. 18, 1964	Defendants motion for new trial—denied, Judge Daly
Dec. 21, 1964	Motion for a judgment N. O. V., Directed Verdict or Stay of Judgment, or in the alternative To Remove The Record, filed by the defendant.
Dec. 28, 1964	Please set the above action for Wednesday, December 30th, 1964, at 9:30 a.m. for the introduction of defendant's prospective Baltimore attorney, for and in preparation to represent defendant in the proceedings, etc. and on the Motion for a Judgment N.O.V. Direct Verdict or stay of Judgment, etc. filed on December 21, 1964. Copy mailed Military affidavit filed.
Dec. 28, 1964	Restitution, writ of, issued
	Restitution, writ of, returned
Dec. 30, 1964	Motion C 1-6-65 in Motions court. Vacate this entry.

DATE	
Dec. 30, 1964	Defts motion for a judgment NOV directed verdict or in the alternative to remove the record—denied. Wherefore judgment is entered this date on the trial finding for plaintiff for possession of the premises, Judge Daly
Dec. 30, 1964	Letter to Mr. Andrew J. Easter from John F. Davis, Clerk Supreme Court of the United States, Washington, Filed.
Dec. 30, 1964	Notice of Appeal filed by Defendant.
Dec. 30, 1964	Military affidavit filed. Judgment for Plaintiff for possession and costs Restitution, writ of, issued Restitution, writ of, returned

APPENDIX 2

DISTRICT OF COLUMBIA COURT OF APPEALS

JANUARY TERM, 1964

No. 3631

L & T 70008-64

ANDREW J. EASTER,
Appellant,

v.

THE CLYDESDALE INCORPORATED,
Appellee.

ORDER

On motion of Herman Miller, Esquire, of counsel for the appellee in the above-entitled case, and he having produced a certificate from the Clerk of the District of Columbia Court of General Sessions showing that an appeal to this Court has been taken, and it appearing to the Court that the appellant has failed to have his cause filed and docketed,

Therefore, it is now here ordered and adjudged by this Court that this appeal be and the same is hereby docketed and dismissed with costs, pursuant to the 33rd Rule of this Court.

November 27, 1964

ANDREW M. HOOD,
Chief Judge.

APPENDIX 3

DISTRICT OF COLUMBIA COURT OF GENERAL SESSIONS

Chambers of Judge Edmond T. Daly

No. L & T 70008-64

THE CLYDESDALE INCORPORATED,
Plaintiff,

vs.

ANDREW J. EASTER,
Defendant.

HERMAN MILLER, ESQUIRE
Attorney for Plaintiff

PRO SE
Attorney for Defendant

Trial finding for Plaintiff.
Appropriate entry to be made on docket—December 7, 1964.

Date: December 4, 1964.

/s/ E. T. Daly
Judge

APPENDIX 4

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SEPTEMBER TERM, 1965

D.C.C.A. 3698

No. 19,442

ANDREW J. EASTER, *Stockholder,*
Petitioner,

v.

THE CLYDESDALE, INC.,
Respondent.

Before: Wilbur K. Miller, Senior Circuit Judge, Fahy, and McGowan, Circuit Judges, in Chambers.

ORDER

On consideration of petitioner's petition for the allowance of an appeal from the District of Columbia Court of Appeals, and of the briefs filed by the parties, it is

ORDERED by the court that petitioner's aforesaid petition is denied.

Per Curiam

Dated: Sep. 24, 1965.

APPENDIX 5

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SEPTEMBER TERM, 1965

D.C.C.A. 3698

No. 19,442

ANDREW J. EASTER, *Stockholder*,
Petitioner,

v.

THE CLYDESDALE, INC.,
Respondent.

Before: Wilbur K. Miller, Senior Circuit Judge, Fahy, and McGowan, in Chambers.

ORDER

On consideration of petitioner's motion for reconsideration, and of respondent's opposition thereto, it is

ORDERED by the court that petitioner's aforesaid motion is denied.

Per Curiam

Nov. 4, 1965

APPENDIX 6

DISTRICT OF COLUMBIA COURT OF APPEALS

Original Number ————

L & T 70008-64

THE CLYDESDALE INCORPORATED,
Petitioner,

v.

ANDREW J. EASTER,
Respondent.

MOTION TO DOCKET AND DISMISS

The action in the trial court is by the petitioner, the owner of a cooperative apartment of which the respondent is a member occupying one apartment and who was sued for possession because he allegedly violated his occupancy agreement.

The respondent filed a plea of title and was given, by order of Court, dated November 9, 1964, four days to file a plea of title bond in the sum of $2,500.00.

This the respondent failed to do and on November 13, 1964, filed his notice of appeal from the order of November 9, 1964.

No final order or judgment has been entered. The notice of appeal is dilatory and operates to petition prejudice in that the petitioner is not receiving payment to maintain the property.

WHEREFORE, the premises considered the petitioner prays the appeal be dismissed.

/s/ Herman Miller
HERMAN MILLER
421 4th Street, N. W.
Attorney for the Petitioner

CERTIFICATE OF SERVICE

Copy of the foregoing Motion mailed to the Respondent, 2801 Adams Mill Road, N. W., by U. S. Mail, postage prepaid, this 17th day of November, 1964.

/s/ Herman Miller
HERMAN MILLER